

Remarks

The examiner has rejected claims 1-6 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,360,330 to Mutalik et al. ("the '330 patent"). The examiner has further rejected claims 7-9 as being unpatentable over the '330 patent in view of U.S. Patent No. 5,771,354 to Crawford et al. ("the '354 patent"), and further in view of U.S. Patent No. 6,574,733 to Langford et al. ("the '733 patent"). These rejections are respectfully traversed.

Applicant has amended claim 1. Entry of the amendment, and favorable consideration thereof is earnestly requested.

Claim 1 of the present invention requires, among other elements, at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number, software executing on said central computer for receiving a data backup request from said client computer, and software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer.

Claims 4 and 7 require, among other elements, at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number; software executing on said central computer for receiving commands from said client computer; software executing on said central computer for receiving data from said client computer; and software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer.

The '330 patent is directed toward a system for backing up data stored in multiple mirrors on a central storage system under control of a backup server. ('330 patent, Abstract). The '330 patent however, fails to disclose use of a client identification number

and software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer as required by all the claims of the present invention. For instance, while the '330 patent variously discloses that the "discovery module receives the backup request and identifies ... at least one storage location on the mass storage subsystem on which data to be backed up during the backup operation is stored", there is no mention or teaching of a client identification number contained in each data record. (Col. 2, lines 51-55). The '330 patent further teaches that "the backup server 13, using the identification provided by the host computer 11 of particular files which are to be restored, identifies the particular storage mirrors 16(s) which contain the files that are to be backed up." (Col. 6, lines 48-51). Although the examiner has submitted that this element is disclosed at (Col. 6, lines 37-53; Col. 5, lines 4-18; Col. 3, line 53 through Col. 4, line 6; and Fig. 1), applicant has been unable to locate the element "at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number." Rather, these portions of the '330 patent variously state that data is stored in a storage subsystem and is identified and distributed "in a conventional manner." (Col. 3, lines 59-62; Col. 5, lines 17-19). Nowhere however, does the '330 patent teach, disclose or suggest the use of a client identification number contained in each data record as required by all the claims of the present invention.

The use of a client identification number allows the present invention to solve a problem that the '330 patent cannot solve. For instance, the '330 patent teaches the use of a centralized system for backing up data contained at a centralized location. This will protect the data if something adverse happens at the centralized location at the data will be housed at a second location. However, the '330 patent fails to teach allowing a client to access his/her data so that it may be saved on the client computer, which will protect the data if the company providing the central storage, for instance, goes out of business. Having the ability to access client information by means of the client identification number will provide the client with greater control over the data and peace of

mind knowing that critical data is protected by more than one company's system. This benefit however, cannot be realized by the '330 patent because no way is disclosed for a client to access his/her information by a client identification number as required by all the claims of the present application.

Applicant further notes that the '330 patent fails to disclose software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer. The '330 patent discloses that "the backup server 13 will retrieve data that is to be backed up from the mass storage subsystem 12 and transfers it to the backup data store 14 for backup storage." (Col. 4, lines 59-61). The '330 patent further discloses that the "backup server 13 initiates backup operations in response to requests therefore from the host computer 11, so that the host computer 11 is effectively a backup client of the backup server 13." (Col. 4, lines 48-52).

The system claimed in the present application differs significantly from the system disclosed and taught in the '330 patent. For instance, claim 1 of the present invention requires "software executing on said central computer for receiving a data backup request from said client computer", while claims 4 and 7 require "software executing on said central computer for receiving commands from said client computer; software executing on said central computer for receiving data from said client computer." In addition, all claims of the present application require "software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer."

Therefore, all the claims of the present application require that a data backup request is sent from the client computer and received by the central computer, and that the central computer transmits data backups to the client computer or network for storage. There are only two computers involved in the transaction, the client computer and the central computer that processes a request and sends the data backup to the client

computer. In contrast, the '330 patent teaches that host computer 11 sends a request to backup server 13 to initiate backup operations, which accordingly backup server 13 retrieves data that is to be backed up from the mass storage subsystem 12 and transfers it to the backup data store 14 for backup storage, not back to the host computer 11. (FIG. 1; Col. 4, lines 48-52 and 59-61).

The system taught and claimed in the present application is directed toward a backup system that may be activated by clients for backup of their data contained on a central computer, such that a data backup is transferred from the central computer to their computer or network. There are a number of ways that the backup request may be sent to the central computer. For instance, the client computer may be set up to pull the data backup from the central computer by sending a backup request to the central computer every time the client wishes a data backup to be sent to the client computer. Alternatively, the client may access the central computer set up an automated schedule on the central computer to push the information to the client computer based upon the schedule of backup requests the client selects. In either case, the source of the request for the data backup is the client computer that either sends a request every time a data backup is desired, or initially sends a data backup request that is repeated according to a schedule.

The '330 patent on the other hand, is directed toward a system for backup of mass data storage by utilization of multiple mirror files. (Col. 1, lines 29-33; Col. 2, lines 45-50). The '330 patent fails to teach, disclose or suggest a backup request being sent from a client computer to a central computer and a data backup being sent back to the client computer in response. In fact, the '330 patent fails to teach or disclose that a client may send a backup request or receive a data backup.

None of the claims in the present application are anticipated by or are obvious in view of the '733 patent. The '733 patent teaches that "a centralized secure data backup system pulls information to be securely backed-up from one or more data sources such

as computer nodes or other processing units such as communication units" and that a "processor centrally initiates extraction of data to be backed-up from a plurality of processing nodes." (Col. 2, lines 39-44). The '733 patent also teaches that the "invention relates ... more particularly to systems and methods that perform centralized secure backup of data." (Col. 1, lines 6-9). Therefore, the '733 patent fails to teach or disclose software executing on said central computer for receiving a data backup request from said client computer, and software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer. Instead, the '733 patent teaches that the backup function is initiated and performed by a centralized system, not a client computer connected to a central computer over an Internet connection. (Col. 3, lines 17-20). In addition, the '733 patent fails to teach or disclose a client identification number but rather teaches "a backup policy index data store" and a "centralized backup policy." (Col. 3, lines 10 and 20-23). Nowhere does the '733 patent teach or disclose use of a client identification number as required by all the claims in the present application.

Applicant further submits in that the '354 patent fails to teach or disclose software executing on said central computer for receiving a data backup request from said client computer, and software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer as previously described in response to the December 20, 2002 Office Action.


Therefore, because neither the '330 patent, the '354 patent, nor the '733 patent teach, disclose or suggest at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number, software executing on said central computer for receiving a data backup request from said client computer, and software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer as required by claim 1 of the present application, none of

the above-listed references, alone or in any combination, can anticipate or render claim 1 obvious.

In addition, because neither the '330 patent, the '354 patent, nor the '733 patent teach, disclose or suggest at least one database containing a plurality of data records accessible by said central computer, each data record containing a client identification number; software executing on said central computer for receiving commands from said client computer; software executing on said central computer for receiving data from said client computer; and software executing on said central computer for transmitting said data backup to said client computer for onsite backup of internet-based data on said client computer as required by claims 4 and 7 of the present application, none of the above-listed references, alone or in any combination, can anticipate or render claim 1 obvious.

It is respectfully submitted that claims 1-9, all of the claims remaining in the application, are in order for allowance, and early notice to that effect is respectfully requested.

Respectfully submitted,



Wesley W. Whitmyer, Jr., Registration No. 33,558
Steven B. Simonis, Registration No. 54,449
Attorneys for Applicant
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155